THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1433 OF 2007

DATED 06th MARCH, 2007

BETWEEN:

Sri Sudhir Rakhra

… Petitioner

AND

The Government of A.P., rep. by its Secretary, Panchayat Raj Department, Secretariat, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1433 OF 2007

ORDER:

The petitioner is allegedly owner of agricultural lands in survey Nos.594-A (part) and 595-A (part) admeasuring Acs.2.24 guntas situated in Dundigal Village, Qutbullapur Mandal, Ranga Reddy District. He claims to have purchased the same under registered sale deed, dated 27.06.1997. He alleges that on 20.01.2007 second respondent issued notice directing the petitioner to remove the structures/constructions coming in the road margin as road widening work is taken up by the respondents. Aggrieved by the same, the petitioner seeks a writ of Mandamus declaring the action of the respondents as illegal and arbitrary, and set aside the impugned notice.

Learned counsel for the petitioner submits that even if the land belonging to the petitioner is required to the extent of 44 feet for widening the existing road, the method adopted by the second respondent is *ex facie* illegal. According to the learned counsel, when the land is required for public purpose it has to be acquired as per law. This submission is not denied by the learned Assistant Government Pleader for Panchayats and learned standing counsel for respondents 2 and 3.

In **P.Lakshmana Rao v. Executive Officer**[1], a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated in **M.Madhavi Latha v. Rajendranagar Municipality**[2]. The principles laid down by the Division Bench are as follows.

> (1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
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> (2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of

the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

While ordering *status quo* till proper procedure is followed, writ petition, with the above observations, is disposed of. No costs.

(V.V.S.RAO,J)

06.03.2007.
pln

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[1] 2000(5) ALT 246 (DB)

[2] 2001(2) ALT 482